

The Gazette of India

EXTRAORDINARY

PART II—Section 2

PUBLISHED BY AUTHORITY

No. 10] NEW DELHI, FRIDAY, MARCH 10, 1961/PHALGUNA 19, 1882

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 10th March, 1961:—

I

BILL No. VII OF 1961

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, Short Title. 1961.

2. In article 343 of the Constitution, for clause (1), the following **Amendment of article 343.** shall be substituted, namely:—

“(1) The official language of the Union shall be Hindi in Devanagari script; English shall be the alternate official language of the Union.”

STATEMENT OF OBJECTS AND REASONS

The purpose of a national language is to unify the nation consisting of people speaking a large number of regional languages, and the Constitution provided that the regional language, spoken by the largest number of Indians, namely, Hindi, should, in fifteen years' time, be the official language of the Union. In actual fact, however, the attempt to make Hindi the official language of the Union appears to have acted as a powerful divisive force in the country and has caused widespread resentment in the non-Hindi speaking regions.

This Bill does not seek to replace Hindi as the official language of the Union by another language but seeks to temper the violent emphasis given to Hindi in article 343 (1) of the Constitution by providing for an alternate official language and thus removing the impression that the protagonists of Hindi seek to impose Hindi on unwilling people and creating the impression that Hindi will become, in due course, the official language of the Union when the bulk of the Indian people voluntarily learn Hindi and not under compulsion.

SUDHIR GHOSH.

II

BILL No. XXVIII OF 1960.

A Bill further to amend the Land Acquisition Act, 1894.

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

1. This Act may be called the Land Acquisition (Amendment) Short title.
Act, 1961.

1 of 1894.

2. In section 4 of the Land Acquisition Act, 1894, after sub- Amendment
section (2), the following sub-section shall be inserted, namely:— of section 4.

“(3) All investigations to be made under this section shall be completed within six months from the date of the publication of the notification under sub-section (1):

Provided that if such investigation is not completed within the said period of six months, the property in question shall be deemed to be *ipso facto* released from the obligations under the notification published under sub-section (1).”

STATEMENT OF OBJECTS AND REASONS

Section 4 of the Land Acquisition Act, 1894, lays down that whenever it appears to the Government that land in any locality is needed or likely to be needed for public purposes a notification to that effect shall be published in the Official Gazette and thereafter the Government shall proceed to make necessary investigations before acquiring the property. The Act has not prescribed any time-limit within which such enquiries are to be completed, with the result that owners of the land whose property has been notified to be acquired have often to wait for years before the enquiries are completed.

The proposed amendment seeks to remedy this.

JUGAL KISHORE.

III

BILL NO. III OF 1961

A Bill further amend the Constitution of India.

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, short title, 1961.

2. In article 72, in clause (1), after sub-clause (c), the following sub-clause shall be inserted, namely:—

“(d) in all other cases where the convicted person is a member of Parliament or of a State Legislature, or where a petition to the President by at least forty members of Parliament or twentyfive members of the Legislative Assembly of the State in which the conviction and the sentence took place, has been made.”.

STATEMENT OF OBJECTS AND REASONS

Under article 72 of the Constitution, the President does not have the power to grant pardons, etc. or to suspend, remit, or commute sentences in respect of persons convicted of any offence against any law relating to a matter to which the executive power of the State extends except when the sentence is a death sentence.

This prevents the President from considering, and members of Parliament or members of State Legislatures from taking up with the President, certain deserving cases for the exercise of this prerogative. In modern civilization, the power such as is provided for under article 72, is exercised in the larger public interest and on humane grounds. In a system which is federal or essentially federal, it is necessary for the President to be invested with wider powers of pardon, reprieve, commutation, etc. of sentences so that the President is in a position to exercise his discretion in cases where the authorities of the States may take a narrow and rigid view in the matter. Hence the Bill seeks to enlarge the discretionary powers of the President to cover cases, from the States, in addition to the cases of death sentences.

BHUPESH GUPTA.

IV

BILL No. VI OF 1961

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, Short title. 1961.

2. To article 57 of the Constitution, the following proviso shall be added, namely:—

Amendment
of article 57.

“Provided that no person who has held the office of President for a second term shall be eligible for re-election to that office.”

STATEMENT OF OBJECTS AND REASONS

The Constitution does not lay down any restriction on the number of terms for which one can hold the office of President. There is strong public opinion in the country that no one should hold this office for more than two terms. The Bill seeks to make provision accordingly.

BHUPESH GUPTA.

V

BILL NO. IV OF 1961

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, Short title. 1961.

2. In article 74 of the Constitution, after clause (2), the following Amendment of article 74. clause shall be inserted, namely:—

“(3) All such advice shall be binding on the President unless each House of Parliament by a motion passed by a majority of the total membership of the House and by a majority of not less than two-thirds of the members of that House present and voting, requests the President to disregard the advice.”

3. To clause (1) of article 123 of the Constitution, the following Amendment of article 123. proviso shall be added, namely:—

“Provided that no such Ordinance shall be promulgated to declare illegal any strike of the workers or of the civil employees or of any other section of the working people.”

4. In clause (2) of article 124 of the Constitution, before the first Amendment of article 124. proviso, the following provisos shall be inserted, namely:—

“Provided that no advice from the Council of Ministers shall be called for, or otherwise entertained, by the President in the matter of such appointment:

Provided further that in the event of any conflict of views between the President and the Judges, or where the Judges so consulted cannot agree amongst themselves, all the names for appointment under consideration shall be referred to the Houses of Parliament for opinion, before arriving at a final decision."

**Amendment
of article
217.**

5. In clause (1) of article 217 of the Constitution,—

(i) the words "the Governor of the State" shall be omitted; and

(ii) before the existing proviso, the following proviso shall be inserted, namely:—

"Provided that the opinion of the Council of Ministers of the State concerned shall not be directly or indirectly sought or otherwise entertained, and that in the event of any conflict of opinion between the President and the Chief Justice of India or the Chief Justice of a High Court, all names under consideration shall be referred to the Legislative Assembly of the State concerned for opinion before arriving at a final decision."

**Amendment
of the second
Schedule.**

6. In the Second Schedule to the Constitution, in Part A, in paragraph 1, for the figures and words "10,000 rupees" and the figures and words "5,500 rupees", the figures and words "2,500 rupees" and the figures and words "750 rupees", shall, respectively, be substituted.

STATEMENT OF OBJECTS AND REASONS

Article 74 does not make it clear that the advice of the Council of Ministers headed by the Prime Minister is binding on the President. Of late, some controversy has arisen as a result of this vagueness and it is sought to be made out that such advice need not be taken as binding on the President. That such a confusion should have arisen after ten years of working of the Constitution over so vital a matter in itself would justify the present amendment proposed in this Bill. Supremacy of Parliament and the constitutional position of the President in that context should be left in no doubt. Hence the amendment to article 74.

The Ordinance-making power of the President has been a subject matter of strong public criticism, more especially, when such power is liable to be exercised in the curtailment of the fundamental and democratic rights of the citizens. Amendment to article 123 accordingly seeks to restrict this power and ensure the right to strike.

In the matter of appointment of Judges, the Executive represented by the Council of Ministers should have no scope for interference. The power of appointment should be exercised by the President only on the advice of the Chief Justices and other Judges. This is essential for ensuring absolute independence of the Judiciary from the Executive at the highest levels. In the event of conflict of opinions between the President and the Judges only the Parliament and the State Legislature, as the case may be, should be consulted. The proposed amendments to articles 124 and 217 seek to make provision accordingly.

In view of the fact that the State is committed to the removal of income disparities it is necessary to set the example at the highest level, where the disparity happens to be very great. Experience further shows that the President and the Governors do not require such high emoluments as are now provided for. The Bill seeks to reduce these emoluments in conformity with the declared public policy.

BHUPESH GUPTA.

VI

BILL No. II OF 1961

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

Short Title. 1. This Act may be called the Constitution (Amendment) Act, 1961.

Amendment
of the First
Schedule to
the Consti-
tution. 2. In the First Schedule to the Constitution, under the heading "I. The States", in the column containing the names of the States, in entry 7, for the word "Madras", the word "Tamilnad" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Public opinion in the State of Madras, as well as in other parts of the country, is strongly in favour of changing the name of the State to 'Tamilnad' in conformity with the historical, linguistic and cultural considerations.

Hence this Bill.

BHUPESH GUPTA.

S. N. MUKERJEE,
Secretary.

